



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित,
PUBLISHED BY AUTHORITY

सं० 15] नई दिल्ली, शनिवार, दिसम्बर 27, 1975 (पौष 6, 1897)

No. 15] NEW DELHI, SATURDAY, DECEMBER 27, 1975 (PAUSA 6, 1897)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग III—खण्ड 3

(PART III—SECTION 3)

लघु प्रशासनों से सम्बन्धित अधिसूचनाएँ (Notifications relating to Minor Administrations)

UNION TERRITORY OF DADRA AND NAGAR HAVELI
Silvassa, the 12th August 1973

No. ADM/LAW/Co-operative-97/(14)/75.—Whereas the draft Rules were published, as required in Sub-Section (3) of Section 168 of the Gujarat Co-operative Societies-1961 (Gujarat Act X of 1962) as extended to the Union Territory of Dadra and Nagar Haveli on 22.9.73 of the Government of India Gazette, Part-III, Section-3 under the Administration of Dadra and Nagar Haveli's No. ADM/LAW/173(a) dt. 3.9.73.

Now, therefore, in exercise of the powers conferred by Sub-Section 1 of Section 168 of the Act the Administrator, Dadra and Nagar Haveli thereby add the following Rules namely.

(i) *Short title* :—This Rule may be called "Dadra and Nagar Haveli Co-operative Societies (Addendum) Rules 1973."

(ii) *Commencement* :

(i) They shall come into force from the date of their publication in the Government of India Gazette.

(ii) They extend to the whole Union Territory of Dadra and Nagar Haveli.

(1) *Appointment of a distrainer* :—(1) On receipt of an application under Section 133 the Registrar shall, if he is satisfied that the particulars set forth in the application are correct appoint a person to distrain and sell the produce of the mortgaged land including standing crops thereon (herein after referred to in this chapter as the "distrainer").

(2) The distrainer on appointment shall serve upon the defaulter a written demand specifying the amount for which the distraint is made. The demand shall be dated and signed by the distrainer and shall be served on the defaulter by delivering a copy to him or some adult male member of his family at his usual place of abode; or when such service can-

not be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(2) *Service of notice* :—The distrainer on appointment shall deliver to the defaulter a list of the property distrained and shall give him intimation in writing of the place, and the day and hour at which the distrained property will be sold :

Provided that where owing to the absence of the defaulter it is not possible to deliver such list to the defaulter, the distrainer shall deliver such list to some adult male member of the defaulter's family or to the authorised agent of the defaulter and when such delivery is not possible, shall affix the list on some conspicuous part of his residence endorsing thereon the place where the property will be sold :

Provided further that where the defaulter does not reside in the village in which the land, the standing crops or the produce of which is distrained is situated, the list shall be affixed on the land and a copy of it shall be sent by registered post to defaulter to his last known place of residence.

(3) *Appointment of Receiver* :—The distrainer may, with the prior approval of the Registrar appoint a receiver for the custody and preservation of property distrained during the interval between the distraint and sale.

(4) *Time of distraint* :—The distress shall be made after sunrise and before sunset and not at any other time.

(5) *Manner of dealing with distrained crop* :—If crops or ungathered products of the land belonging to a defaulter are distrained, the distrainer may cause them to be sold when fit for reaping or gathering or at his option may cause them to be reaped or gathered, in due season and stored in proper place until sold.

(6) Place which distrainer may force open :—

(1) If shall be lawful for the distrainer to force open any stable, cow-house, grannary, out-house or other building, and he may also enter any dwelling house the outdoor of which may be open, and may break open the door of any room in such dwelling house for the purpose of distraining the produce of the mortgaged land therein, provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the *zanana* or residence of women except as hereinafter provided.

(2) Where a distrainer may have reason to suppose that the produce of the mortgaged lands is lodged within a dwelling house the outer door of which may be shut, or within any apartment appropriated to women, which by the usage of the country, are considered private the distrainer shall represent the fact to the officer in charge of the nearest police station.

(3) On such representation, the officer in charge of the said station shall send a police officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling house in like manner as he may break open the door of any room within the house except the *zanana*.

(4) The distrainer may also in the presence of the police officer, after due notice given for the removal in a suitable manner enter the *zanana* apartments for the purpose of distraining the produce of the mortgaged land, if any, deposited therein but such property if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

(7) *Proclamation of time and place of sale and of property to be sold* : The distrainer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village or town in which the defaulter resides or the produce is kept and in such other place or places as the distrainer may consider necessary to give due publicity to the sale :

Provided that no sale shall take place until the expiration of a period of 15 days from the date of the service of the demand referred to in rule (4).

Provided further that where the property siezed is subject to speedy and natural decay the distrainer may sell it at any time before the expiry of the said period of 15 days.

(8) *Procedure for sale* :—(1) At the appointed time and place the distrainer shall sell in public-auction the distrained property or such part thereof as may be necessary, in one or more lots as the distrainer may consider desirable and dispose of the same to the highest bidder.

(2) The distrainer may in his discretion adjourn the sale to a specified day and hour, recording the reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under rule (10) shall be made unless the defaulter consents to waive it.

(9) *Payment on purchase of distrained property* :—The property shall be paid for in cash at the time of sale, or at such time as the distrainer shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full.

(10) *Resale in case of default* :— If the purchaser fails in the payment of the purchase money the property shall be resold. Any deficiency of price which may happen on the resale and all expenses attending such resale shall at the instance of either the applicant or the defaulter be recoverable from the defaulting purchaser.

(11) *Penalty for forcibly or clandestinely taking away distrained property* :—Where on an application made in this behalf it is proved to the satisfaction of any Civil Court of competent jurisdiction that any property which has been distrained under the rules has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the distrainer.

(12) *Withdrawal of distress on tender of moneys due and expenses prior to sale* :—If : " " the day fixed for sale the defaulter or any person acting in his behalf or any person claiming an interest in the property distrained pays the full amount due, including interest and other expenses incurred in the distraining and proclaiming the sale, the distrainer shall not proceed with the sale and shall release the property forthwith.

(13) *Investigation of claims to any right or interests in distrained property* :—(1) Where any claim is preferred by any person other than the defaulter to any right or interest in the distrained property, the distrainer shall investigate the claim and dispose of it on its merits :

Provided that no such investigation shall be made where the distrainer considers that the claim was designedly or unnecessarily delayed.

(2) Where the property to which the claim applies has been advertised for sale, the distrainer may postpone the sale pending the investigation of the claim.

(14) *Procedure when defaulter neglects to pay* :—If before the expiration of the time allowed in the notice issued under clause (a) of sub section (2) of section 134 the amount specified in such notice is not paid, the Sale Officer shall after giving notice to the bank on whose behalf the application is made, proceed to sell the mortgaged property.

(15) *Proclamation before sale* :—The Sale Officer shall for the purpose of sale of the mortgaged property make a proclamation. Such proclamation shall be published by affixing it in the office of the principal officer of the Cooperative Department in the District and in the taluka office at least ten days before the date fixed for the sale and also by beat of drum in the village or town where the mortgaged property to be sold is situated on two consecutive days previous to the date of sale and the day of sale, prior to the commencement of the sale. The proclamation shall state the time and place of sale and specify as fully and accurately as possible :

(i) the property to be sold;

(ii) the revenue or rent payable in respect thereof;

(iii) the amount for the recovery of which the sale is brought;

(iv) every other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of property;

(16) *Sale to be by public auction*.—(1) When any mortgaged immovable property is sold under these rules, the sale shall be by public auction to the highest bidder.

(2) The Sale Officer, may in his discretion adjourn the sale to a specified day and hour, recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under rule 15 shall be issued unless the mortgagor consents to waive it.

(17) *Deposit by purchaser and resale on default*.—A sum of money equal to 15 per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase and in default of such deposit the property shall forthwith be resold :

Provided that where the bank at whose instance the property is sold is the purchaser and is entitled to set off the purchase money against the amount due under rule 73, the Sale Officer shall dispense with the requirement of this rule.

(18) *Time for payment of balance of purchase money*.— the remainder of the purchase money and the amount required for the general stamp for the certificate under section 138 shall be paid within 15 days from the date of sale.

Provided that the time for payment of the amount required for the general stamp may for good and sufficient reasons be extended at the discretion of the Sale Officer upto 30 days from the date of sale :

Provided further that in calculating the remainder of the purchase money to be paid under this rule, the purchaser shall have the advantage of any set off to which he may be entitled, under rule, 22.

(19) *Procedure in default of payment.*—In default of payment within the period mentioned in rule 18 the deposit may, if the Sale Officer thinks fit, after defraying all costs, charges and expenses of sale, be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

(20) *Defaulting purchaser answerable for loss on resale.*—Any deficiency of price which may happen on the resale by reason of the purchaser's default and all expenses attending such resale, shall, at the instance of either the applicant or the mortgagor, be recoverable from the defaulting purchaser.

(21) *Notification on resale.*—Every resale of mortgaged immovable property in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

(22) *Procedure when applicant bank purchases property.*—Where the mortgage bank at whose instance the property is sold purchase the property the purchase money and the amount due shall be set off against one another and the Sale Officer shall enter up satisfaction of payment of the mortgage money in whole or in part accordingly.

(23) *Release of property on payment of arrears due.*—Where prior to the day fixed for sale the mortgagor or any person acting on his behalf or any person claiming an interest in the mortgaged property tenders payment of the full amount due including interest costs, charges and expenses incurred in the connection with the sale of the property, the Sale Officer shall not proceed with the sale.

(24) *Report of Sale.*—The Sale Officer shall, on the conclusion of the sale make a report to the mortgage bank at whose instance the property was brought to sale regarding the results of the sale

(25) *Report under section 136.*—The report to be submitted by the primary land mortgage bank shall contain amongst all other details, the following particulars, namely:—

- (a) Name of the Sale Officer;
- (b) Place of sale;
- (c) Date of sale;
- (d) Description of the property sold;
- (e) Name of purchaser and his address;
- (f) Value realised;
- (g) Amount of claim of the Bank including interest;
- (h) Cost of sale.

(26) *Certificate to purchaser.*—The certificate to be granted to the purchaser under sub-section (1) of section 138 shall be in form 1.

(27) *Qualification of members of Cooperative Tribunals.*—

(1) Subject to the provisions of sub-rule (2).

- (a) the President of the Tribunal shall be person who—
 - (i) has been a judge of the High Court, or
 - (ii) has been a District Judge; or
 - (iii) has held the office of the Registrar of Cooperative Societies in any State;
- (b) The other members of the Tribunal shall be Advocates of 10 years experience.

(2) No person shall be qualified for being appointed as the President or member of the Tribunal if he is a member of the Managing Committee of any society other than an educational society, propagandist society or a federal society which is not carrying business for gain.

By ORDER of the Administrator.

The 19th November 1975

No. AIM/LAW/164(2)-15/75.—Whereas a draft notification was published, as required by section 27 of the Minimum Wages Act, 1948 (Act No. XI of 1948) on page 15 of the Government of India Gazette, Part III, Section 3, dated 13th April 1974 under the Administration of Dadra and Nagar Haveli No. ADM/LAW/164(2), dated 29th March 1974 inviting objections and representations from all persons likely to be affected thereby till 30th June, 1974

And whereas no objection and representation is received from the public on the said draft notification till 30th June, 1974.

Now, therefore, in exercise of the powers conferred by Section 27 of the Minimum Wages Act, 1948 (XI of 1948), the Administrator, Dadra and Nagar Haveli is pleased to add employments as specified in the scheduled hereto annexed to part I of the said Act.

By ORDER of the Administrator,
M. C. NAIK,
Secretary to the Administrator,
Dadra and Nagar Haveli,
SILVASSA.

SCHEDULE

The following employment shall be added to part I of the schedule provided to the Minimum Wages Act, 1948, as extended to the whole territory of Dadra and Nagar Haveli.

- (13) Employment in any industry in which any process of printing by letter press, lithography, photo gravure or other similar work or incidental to such process or book binding is carried on.
- (14) Employment in any residential Hotel, Restaurant or eating house.
- (15) Employment in any Cotton ginning or cotton pressing manufactory.
- (16) Employment in glass industry.
- (17) Employment in any shop or commercial establishment (not being an employment in any bank or any employment which is included) under any of the other entries in this schedule.
- (18) Employment in potteries.
- (19) Employment in rubber manufacturing industry.
- (20) Employment in paper and paper board manufactory.
- (21) Employment in Cinema exhibition industry.
- (22) Employment in any industry in which any process of transforming plastics into various solid shapes, through moulding, forming, extrusion or casting application signally or together with heat and/or pressure or both or other similar work or work incidental to such process is carried on.

- (23) Employment in Hospitals not falling under entry 6 in part I of the schedule to the Minimum Wages Act, 1948—

Explanation.—For the purpose of this entry hospital means any institution for reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid.

- (24) Employment in any brick or roof tiles (Terra Cotta or earthen manufactory).

- (25) Employment in any premises wherein buffaloes or cows are kept for milking, cleaning or feeding and for all other ancillary processes.

- (26) Employment in automobile repairing workshops and garages.

- (27) Employment in canteens and clubs not falling under entry 13 in this part.

- (28) Employment in power loom industry.

- (29) Employment in a Cement prestressed products industry.